Supreme Court, U.S.
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Docket Number 05-877

SUPREME COURT OF THE UNITED STATES

VIRGILIO JERONIMO-BAUTISTA,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

PETITION FOR REHEARING

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I. PETITION FOR REHEARING

Pursuant to Supreme Court Rule 44.1, Petitioner Virgilio Jeronimo-Bautista respectfully petitions the Court for rehearing of its Order issued on April 17, 2006. The grounds for this petition include the importance of Defendant's constitutional rights at issue, the division among the circuits, and the conflict of the lower court's ruling with the Court's prior holding in United States v. Lopez, 514 U.S. 549, 131 L. Ed. 2d 626, 115 S. Ct. 1624 (1995) and United States v. Morrison, 529 U.S. 598, 120 S. Ct. 1740, 146 L. Ed. 2d 658 (2000).

II. DISCUSSION

Petitioner should be granted rehearing based upon the consequences of the Court's April 17, 2006 Order, on Petitioner's constitutional rights, the disagreement among the circuits on the constitutionality of 18 U.S.C. §2251(a) [hereinafter § 2251(a)], and the conflicting views of the Court between its Order denying Petitioner's Petition for Writ of

Certiorari and the Court's prior decisions in Lopez and Morrison.

A. Petitioner's Constitutional Rights

The Tenth Circuit reversed the District Court of Utah and it's decision dismissing the indictment against Petitioner for alleged violation of § 2251(a) finding that the statute does not violate the *Commerce Clause*, Article I, Section 8. Cl. 3 of the United States Constitution. This Court's Order dismissing Petitioner's Petition for Writ of Certiorari supports the excessive and unreasonable expansion of the Commerce Clause in violation of Petitioner's constitutional rights.

B. Conflicts With Other Circuits

Rehearing should be granted and certiorari granted because a disagreement exists among the circuits in regard to the constitutionality of § 2251(a). Various circuits, notably here, the Tenth, have found § 2251(a) to be constitutional. However, the Sixth and Ninth Circuits have each found § 2251(a) to be unconstitutional. Rehearing should be granted to settle the disagreement among the circuits.

C. Conflicts With Lopez and Morrison.

The Court held that two different statutes violated the Commerce Clause in Lopez and Morrison. The basis for these findings dealt with the issue of the interstate effects of intrastate gun violence and violence against women. Rehearing should be granted to determine the constitutionality of § 2251(a) in light of the Court's previous findings in Lopez and Morrison.

CONCLUSION

For all the foregoing reasons, Petitioner respectfully requests the Court grant his petition for rehearing, reconsider the matter and grant his petition for certiorari.

Certificate of Counsel

As counsel for the petitioner, I believe this petition for rehearing to be meritorious and hereby certify that this petition is presented in good faith and not for purposes of delay.

MARY C. CORPORON
Attorney for Petitioner

RESPECTFULLY SUBMITTED this 11 day of May, 2006.

CORPORON, WILLIAMS & BRADFORD P.C.

MARY C. CORPORON
Attorney for Petitioner